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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID W. CREVELING, Plaintiff - Appellant, v. STATE OF WASHINGTON, Defendant - Appellee.	No. 05-36018 D.C. No. CV-04-00486-FVS MEMORANDUM [*]

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, Chief Judge, Presiding

Submitted September 11, 2006 [**]

Before: PREGERSON, T.G. NELSON, and GRABER, Circuit Judges.

David W. Creveling appeals pro se from the district court's judgment dismissing on Eleventh Amendment grounds his action arising from the State of Washington's seizure of a water diversion. We have jurisdiction pursuant to 28

[*] This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

[**] The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 1291. After de novo review, *Harrison v. Hickel*, 6 F.3d 1347, 1352 (9th Cir. 1993), we affirm.

Under the Eleventh Amendment of the United States Constitution, a State is immune from suit brought in federal court by its own citizens as well as citizens of another state. *See Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984). Although a state may waive its sovereign immunity by consenting to suit in federal court, such waiver must be unequivocally expressed. *See id.* at 99. Washington's waiver of immunity in its own courts does not waive its immunity in federal court. *See McConnell v. Critchlow*, 661 F.2d 116, 117 (9th Cir. 1981). Because Creveling named only the State of Washington as a defendant, the district court did not err in determining that Creveling's action is barred by the Eleventh Amendment. *See Pennhurst*, 465 U.S. at 100. This decision does not preclude any action Creveling might file in state court.

Creveling also objects to the denial of his motion for a default judgment, but he fails to set forth any basis for concluding that he was entitled to a default judgment or that the district court abused its discretion. *See Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986) (describing factors to be considered by courts in exercising discretion as to the entry of a default judgment).

We deny the motion for injunctive relief that Creveling filed on August 24, 2006.

AFFIRMED.